IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT BENCH JAIPUR

O R D E R

Nanag Ram Vs. The State of Rajasthan & Others

(SB Civil Writ Petition No. 86/94)

Date of Order : 9/10/2006

Hon'ble Mr. Justice KS Rathore

Mr. VB Srivastava, for the petitioner.
Mr. BS Chhaba, Additional Govt. Advocate.

Brief facts of the case are that the petitioner was initially appointed as Driver in January, 1991 on daily wage basis in Election Department of the State. He has also undertaken the driving test conducted by the Rajasthan State Motor Garrage, Jaipur and was found fit to hold the post of driver by the Controller State Motor Garrage, Jaipur vide letter dated 27.8.91. He was also declared medically fit vide certificate dated 30.10.91 issued by the Medical Officer after medical examination. Thereafter, he was appointed on daily wage basis for a fixed period and fixed

term and the term was extended from time to time. And lastly the term was not extended beyond 16.3.92. During the aforesaid period, the petitioner also contributed in State Insurance and since the petitioner continuously worked without any break from 1991 to uptil 30.6.92.

The petitioner challenged the order dated 30.6.92 before this Court by way of filing a writ petition but the same was dismissed on the ground that the petitioner has got other alternative efficacious remedy. Pursuant to the order passed by this Court in the writ petition filed by the petitioner, the petitioner challenged the termination order dated 30.6.92 by filing an appeal before the Rajasthan Civil Services Appellate Tribunal and same was dismissed vide order dated 16.7.93.

The petitioner filed the present writ petition against the termination order dated 30.6.92 and the order passed by the Tribunal dated 16.7.93.

Per contra, learned counsel for the state submits that the petitioner was not advised to invoke the jurisdiction under the Industrial Disputes Act and has gone to the Rajasthan Civil Services Appellate Tribunal and further submits that the petitioner was never given regular appointment. The appointment was temporary and for a fixed period. It is not a case of termination and in fact it is a case not extending the term beyond 30.6.92.

Having considered the rival submissions of the respective parties and upon perusal of the order impugned passed by the Tribunal which is under challenge in this writ petition, the Tribunal held that the petitioner was given appointment on temporary basis for a fixed period. By impugned order no extension was granted to him. The appellant was a Government servant under the Tribunal Act, 1976. His term of appointment was not extended and such matter related to appointment is not covered under the definition of the 'Service Matters' given in

the Tribunal Act, 1976. The Division Bench therefore, rightly passed order dated 12.1.93 wherein it was rightly indicated that alternative remedy was available to the appellant either under the Industrial Disputes Act, 1947 or by way of a civil suit. The issue involved in this appeal is related to appointment. The extension of term appointment is also related to appointment. Therefore, the Tribunal has no jurisdiction to adjudicate on this issue which is a matter of appointment and thus the appeal filed by the appellant was rejected.

It appears that the petitioner was ill-advised, whereas; the Division Bench has categorically stated that the petitioner has got an alternative remedy under the Industrial Disputes Act, 1947 or by way of a civil suit and ignoring the direction and liberty given to the petitioner, the petitioner has chosen to file appeal before the Rajasthan Civil Services Appellate Tribunal and which has rightly been

rejected by the Tribunal as it having no jurisdiction. I find no illegality in the order impugned passed by the Civil Services Appellate Tribunal.

Consequently, the writ petition fails and is hereby dismissed.

(KS RATHORE), J.